

REMARKS

Claims 1-21 remain in the case. Favorable reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

Allowed Subject Matter:

The "Office Action Summary Page" of the First Office Action states claims 1-15 are allowed. This allowance is noted and appreciated.

However, the body of the action, specifically item 4, page 3, states claims 1, 2 and 5 are rejected under 35 U.S.C. 112, second paragraph. Claims 1, 2 and 5 have thus been amended without prejudice as described further below.

Proposed Amendments to the Drawings:

Applicant proposes to amend Figures 1-4 and 6 of the application drawings by adding identifying numerals (with associated lead lines):

"36" to Figures 1, 2 and 3,

"62" to Figure 4,

"64" to Figures 1 and 3,

"68" to Figures 1 and 2, and

"82" to Figures 1 and 2

and removing numeral "54" from Figures 1 and 2 as generally recommended in the First Office Action.

Moreover, paragraph 19 of the specification was amended to replace numeral "54" with numeral "36."

In the Specification:

The paragraph number 19 on page 4, is currently amended to correct a clerical error and exchange redundant identifying numeral "54" with numeral "36" thus conforming to the proposed drawing changes.

The paragraph number 25 on page 6, is currently amended to specify that "VELCRO" is a registered trademark and to further generically identify what VELCRO is per the Office Action recommendation.

Claim Rejections - 35 USC §112, first paragraph:

Claim 16 has been rejected under 35 USC §112, first paragraph, as not enabling a person skilled in the art to make and use the invention.

Claim 16 has been amended without prejudice by attaching the shafts (28, 30) of the spa cover removal mechanism (22) to a spa cover (34) and removing unnecessary functional language such as "resiliently" and "removeable flex." The Applicant contends that claim 16 is generally commensurate in scope to the claims initially filed and thus does not require a new search.

Claim Rejections - 35 USC §112, second paragraph:

Claims 1, 2, 5, 16 and 17 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention due to claims 1, 2 and 5 being unclear as to what "spa" is a part of, and Claim 16 is unclear as to whether "spa" is intended to be part of the claimed combination or not.

Although Claims 1, 2 and 5 were specified as being "allowed" on the USPTO's "Office Action Summary," a reading of Independent Claims 1 and 16 suggest a potential need for clarification. Hence, Claims 1 and 16 have been amended without prejudice to remove the first introduction of the first and second sides (38, 40) of the spa (42) from the body of the claim and adding it to the preamble thus indicating the sides of the spa are not part of the claimed subject matter. Moreover, the claimed "convertible

enclosure" for Claim 1 has been amended to read "convertible spa enclosure to further define the environment and art for which the invention pertains."

Claims 1, 2, 5 and 16-17 are thus believed to be in a condition for allowance, or in a continued condition for allowance.

Claim Rejections - 35 USC §102:

Claims 16 and 17 have been rejected under 35 USC §102(b) as being anticipated by Durham, U.S. Patent No. 653,621. The Applicant respectfully traverses the rejection.

The Durham reference '621 does not have the spa cover removal mechanism (22) as originally claimed in Claim 16 of the present invention. "Anticipation under 35 U.S.C. § 102 requires the presence in a single prior art disclosure of each and every element of a claimed invention." Lewmar Marine v. Barient Inc., 3 U.S.P.Q. 2d 1766, 1767 (Fed. Cir. 1987).

Consequently, claims 16 and 17 of the present invention are not anticipated by Durham '621 under USC §102(b).

Claim Objections:

Claims 18-21 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 18 is currently amended to include the limitations of base Claim 16 (this includes Claim 16 amendments made to satisfy the rejection given under 35 USC §112, second paragraph) and intervening Claim 17.

Consequently, Claims 18-21 are now in a condition for allowance.

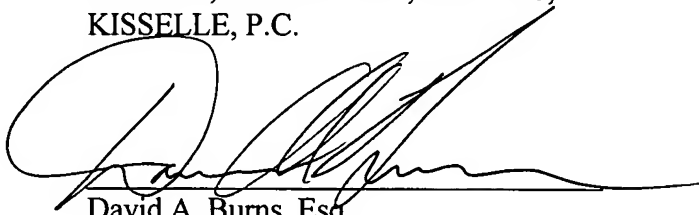
Summary:

Please reconsider and allow Claims 1-3 and 5-21 in view of the above amendments and remarks.

If it is determined that any fees are due, the Commissioner is hereby authorized and respectfully requested to charge such fees to Deposit Account No. 50-0852.

Respectfully submitted,

REISING, ETHINGTON, BARNES,
KISSELLE, P.C.

A handwritten signature in black ink, appearing to read "David A. Burns", is written over a horizontal line.

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